



## PRESS-REGISTER

### Lawyer: Affidavit won't affect Siegelman appeal

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MONTGOMERY -- The sentencing of former Gov. Don Siegelman and former HealthSouth CEO Richard Scrushy this week got significant attention from the national media and in the blogosphere, fueled mainly by a Republican political operative's affidavit suggesting possible White House involvement in the prosecution.

While the affidavit by a former campaign worker for Gov. Bob Riley garnered headlines in the New York Times and elsewhere -- seemingly buttressing Siegelman's repeated contention that his prosecution has been politically motivated -- it

likely will not play a role in Siegelman's appeal of the more than seven-year federal prison term handed down Thursday night.

"It just happened way too late to have anything to do with our case, and by the time it happened, we were focused on sentencing," said Vince T. Kilborn, a Mobile attorney who has represented Siegelman throughout his trials.

Attorneys for Siegelman, a Mobile native, and Scrushy filed appeals Friday morning. The affidavit, Kilborn said, was "pretty much irrelevant" to that process.

Kilborn said Siegelman was in a federal penitentiary in Atlanta on Friday, and that he was working on a request to have Siegelman released pending the hearing of the appeal.

U.S. District Judge Mark Fuller, who on Thursday night sentenced Siegelman to seven years and four months and Scrushy to six years and 10 months in the federal bribery case, on Friday turned down a motion filed by Scrushy asking that he be released on an appeal bond.

Fuller rejected similar bids on Thursday night, leaving one of Siegelman's attorneys holding the former governor's belt and jacket as Siegelman and Scrushy were led away by U.S. marshals.

"I've been shaken by that, to see my client put in shackles and whisked off to the Atlanta penitentiary," Kilborn said. "That's a dangerous place to be."

Siegelman, who has also been secretary of state, attorney general and lieutenant governor, served as the state's chief executive from 1999 to 2003. He lost his 2002 re-election bid to Riley by a little more than 3,000 votes out of more than 1.3 million votes.

It was one of the narrowest margins of defeat in the modern-age annals of statewide politics in Alabama, with Siegelman making allegations at that time of political maneuvering by Republicans.

A spokeswoman for Scrushy said his lead attorney, Art Leach, was in meetings Friday afternoon.

The affidavit by Dana Jill Simpson, a Rainsville attorney who worked on Riley's 2002 election campaign, claims that Riley's then adviser, Bill Canary, said on a conference call that "his girls" -- his wife, Leura

Canary, the U.S. attorney for Alabama's Middle District; and Alice Martin, the U.S. attorney for the Northern District -- would "take care of" Siegelman.

Simpson also claimed in the affidavit that Canary told Rob Riley -- Bob Riley's son and campaign manager - that he had things "worked out" with a person identified as Karl.

Karl is believed to have been an oblique reference to Karl Rove, a top official in the Bush White House.

Those accusations brought extra attention to the sentencing phase of the trial this year, and the New York Times, the Los Angeles Times and Time Magazine have published lengthy stories on the accusations.

Bill Canary has denied saying it and Leura Canary early on recused herself from any oversight of what became a wide-ranging state and federal probe of activities related to Siegelman's administration.

Simpson's office on Friday directed questions to Montgomery attorney Priscilla Duncan, who said that affecting the trial's outcome was not her main concern in drawing up the affidavit.

"I think she wanted to get it on record, more than anything else," Duncan said. "She'd had a couple of scares, which you're aware of."

Simpson's house caught on fire Feb. 21, and Simpson was involved in a traffic accident on March 1 in which Duncan says Simpson was deliberately run off the road while driving back from a meeting with Richard Scrushy in Birmingham.

The state trooper who wrote up the March 1 police report, provided to the Press-Register by Duncan, says Simpson attempted to avoid a vehicle making an "improper lane change over onto (Simpson's vehicle)." The car swerved to avoid it and hit a stationary car in a driveway.

Some blogs have tied the incidents to a deliberate campaign of retaliation against Simpson, but Duncan was more cautious on Friday, noting that the affidavit was not drawn up until May.

"She's not saying she's got proof or is totally convinced that they're connected to people that are connected to the other side," Duncan said, but added that "lightning struck twice."

Duncan also said "there were certain things (Simpson) was being asked to do that could be criminal acts," but declined to name the people making requests or their nature, other than to say they were violations of legal ethics.

Beyond the need to get it out, Duncan said there was no reason why the affidavit came out during sentencing and not during the trial.

"I don't think there was a particular reason, no," she said. "Nobody asked her."

Rainsville Fire Chief Ronnie Helton could not be reached for comment Friday, but Helton told the Florence Times Daily last week that investigators were looking at an electrical surge as the cause of the Feb. 21 house fire. Alabama state Fire Marshal Ed Paulk said earlier this week that his office had not been asked to join in the investigation.

The appeal filed by Kilborn on Friday contests the conviction on a variety of fronts, including the statute of limitations in bribery cases and what he claimed was a misapplication of the statute concerning obstruction of justice charges.

His main focus for now, he said, would be getting Siegelman out of prison. Kilborn hoped to have a hearing on that next week.

"He's not a flight risk, he's not a danger to society, and he's not going to kill somebody," Kilborn said.

(The Associated Press contributed to this report.)